

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re:

Dennis Manuel,

Debtor(s).

Case No.: 1-17-46069-nhl

Chapter 13

AFFIDAVIT IN OPPOSITION
TO INSTANT FUNDING, LLC
MOTION TO CONFIRM
FORECLOSURE SALE

-----X

STATE OF NEW YORK)

COUNTY OF KINGS)

Kiva Vera James, Esq., being duly sworn, deposes and says:

1. I am the Debtor's attorney in the above referenced case and as such as fully and completely familiar with the facts and circumstances involved herein.
2. I submit this affidavit in opposition to Instant Funding, LLC's Motion dated November 28, 2017 seeking to confirm termination of the automatic stay in the herein case and to confirm the foreclosure sale of the Debtor's primary residence at auction on November 16, 2017.
3. The Debtor was forced to file a "skeleton" Chapter 13 petition on November 15, 2017 to stop the sale of his primary residence set to be sold at foreclosure auction on November 16, 2017.
4. The Debtor's previous filing of a Chapter 7 petition on August 8, 2017 was a "pro se" attempt to get relief.
5. However, the court issued an In-Rem relief in the Chapter 7 case on October 9, 2017.
6. This Order clearly stated that it was to be recorded prior to the sale of the Debtor's property. *See EXHIBIT A.*

7. The Movant did not follow this Court's directive (because there was no recording prior to the attempted sale of the Debtor's property) and should not be allowed to rely on the tenets of an Order they themselves did not heed. *See Exhibit B.*
8. Therefore, the filing of the herein petition did in fact stay the foreclosure sale of the property at issue.
9. Furthermore, since the filing of the herein petition the Debtor has increased his income significantly and his Amended Schedule I and Amended Schedule J reflect an ability to pay plan payments as stated in the Debtor's proposed Chapter 13 Plan (hereinafter "the Plan"), *(Dkt #25 & #26)*.
10. The Debtor's proposed Chapter 13 plan will pay the Movant in full and make them whole. Hence, there is no prejudice to the Movant
11. Therefore, confirmation of the termination of the automatic stay, or of the foreclosure sale, is not warranted pursuant to 11 USC Sec.362(d)(4)(B).

WHEREFORE, the Debtor's attorney hereby prays for Instant Funding LLC's motion for an Order pursuant to the provisions of 11 USC Sec.362(d)(4)(B), be denied, and for such other and further relief as this Court deems just and proper.

Dated: Brooklyn, New York
February 3, 2018



Debtor's Attorney

KIVA JAMES, ESQ., PLLC

344 Ave U, Suite 628

Brooklyn, NY 11223

Phone: 347-764-2540

Fax: 347-342-3197

Email: kivajamesesquire@hotmail.com

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

224 Bergen Bond Nevins Corp,

Debtor.
-----X

Chapter 7

Case No. 17-43546-nhl

ORDER GRANTING IN REM RELIEF FROM THE AUTOMATIC STAY

Upon the motion (the "Motion") of Instant Funding, LLC ("Movant") filed on August 8, 2017, and the Affirmation of Pranali Datta in Support and the exhibits thereto, seeking, *inter alia*, entry of an order, (a) pursuant to 11 U.S.C. § 362(d) for relief from the automatic stay as to Movant's interests in the real property commonly known as 224 Bergen Street, Brooklyn, NY 11217, also known as Block: 387 Lot: 25 (the "Property"), and (b) pursuant to 11 U.S.C. § 362(d)(4)(B), for *in rem* relief from the automatic stay imposed in subsequent cases under 11 U.S.C. § 362(a), such that any and all future filings under the Bankruptcy Code during the next two years by the debtor herein, 224 Bergen Bond Nevins Corp (the "Debtor"), or any other person or entity with an interest in the Property shall not operate as a stay as to Movant's enforcement of its rights in and to the Property; and there being no opposition; and due and sufficient notice having been given; and a hearing having been held before the Court on September 20, 2017 (the "Hearing"), at which counsel for Movant appeared, and Debtor's principal, Dennis Manuel appeared; and upon the record of the Hearing, at which the Court determined that the filing of the Debtor's bankruptcy petition was part of a scheme to delay, hinder, and defraud creditors that has involved multiple bankruptcy filings affecting the Property; and upon the letter of no objection to the Motion filed by the Chapter 7 Trustee; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, that the Motion is granted to the extent set forth herein; and it is further

ORDERED, that the automatic stay imposed by 11 U.S.C. § 362(a) as to the Property is hereby terminated as to Movant, its successors and/or assigns, to permit Movant to pursue its rights under applicable law with respect to the Property; and it is further

ORDERED, that pursuant to 11 U.S.C. § 362(d)(4), and provided that this Order is recorded in compliance with applicable New York law governing notices of interests or liens in real property, this Order terminating the automatic stay under 11 U.S.C. § 362(a) as to Movant's interest in the Property, shall be binding in any other case filed under the Bankruptcy Code purporting to affect the Property that is filed not later than two (2) years after the date of the entry of this Order, such that the automatic stay under 11 U.S.C. § 362(a) shall not apply to Movant's interest in the Property, except that a debtor in a subsequent case under this title may move for relief from this Order based upon changed circumstances or for good cause shown, after notice and a hearing; and it is further

ORDERED, that the Trustee's right to surplus funds is hereby preserved, and the Movant shall promptly report and turn over to the Trustee any surplus monies realized by any sale of the Property.

SEAL

I hereby attest and certify on 10/10/17 that this document is a full, true and correct copy of the original filed on the court's electronic case filing system.

Clerk, US Bankruptcy Court, EDNY

By M. M. M. M. Deputy Clerk

Dated: Brooklyn, New York
October 9, 2017



Carla E. Craig
Carla E. Craig
United States Bankruptcy Judge

New York City Department of Finance
Office of the City Register

HELP

[Click help for additional instructions]
Selecting a help option will open new window

Current Search Criteria:


Borough: BROOKLYN / KINGS
Block: 00387
Lot: 0025 **Unit:** N/A
Date Range: To Current Date
Document Class: All Document Classes

Search Results By Parcel Identifier

Records 1 - 10 << previous [next](#) >>
[Print Index]

Max Rows **10** ▼

[Search Options] [New BBL Search] [Edit Current Search] [View Tax Map]

View	Reel/Pg/File	CRFN	Lot	Partial	Doc Date	Recorded / Filed	Document Type	Pages	Party1	Party2	Party 3/ Other Names	More Party 1/2	Corrected/ Remarks	Doc Amount
 DET IMG →		2017000465081	25	ENTIRE LOT	12/1/2017	12/20/2017 3:15:59 PM	COURT ORDER	4	UNITED STATES BANKRUPTCY COURT	224 BERGEN BOND NEVINS CORP				0
DET IMG		2017000363643	25	ENTIRE LOT	9/22/2017	9/29/2017 4:33:51 PM	DEED	3	224 BERGEN BOND NEVINS CORP	MANUEL, DENNIS				0
DET IMG		2017000248346	25	ENTIRE LOT	7/3/2017	7/6/2017 12:15:47 PM	DEED	3	MANUEL, DENNIS	224 BERGEN BOND NEVINS CORP				0
DET IMG		2015000286026	25	ENTIRE LOT	5/26/2015	8/18/2015 10:42:04 AM	ASSIGNMENT, MORTGAGE	3	COUNTRYWIDE HOME LOANS, INC.	BANK OF AMERICA, NA				0
DET IMG		2013000335519	25	ENTIRE LOT	5/13/2013	8/22/2013 3:25:14 PM	ASSIGNMENT, MORTGAGE	2	BANK OF AMERICA, NA	GREEN TREE SERVICING LLC				0
DET IMG		2006000271097	25	ENTIRE LOT	4/21/2006	5/16/2006 10:36:42 AM	ASSIGNMENT, MORTGAGE	3	GREENPOINT MORTGAGE FUNDING, INC.	INSTANT FUNDING, LLC				0
DET IMG		2004000108236	25	ENTIRE LOT	1/12/2004	2/23/2004 6:50:52 PM	SATISFACTION OF MORTGAGE	3	MANUEL, DENNIS	BENEFICIAL HOMEOWNER SERICE CORPORATION		✓		0
DET IMG	5996/342		25	ENTIRE LOT		12/31/2002	WITHHELD SATISFACTION	2	MANUEL, DENNIS	BENEFICIAL HOMEOWNERSERVICE CORPORAITON				0
DET IMG	5660/404		25	ENTIRE LOT		6/6/2002	MORTGAGE	16	MANUEL, DENNIS	GREENPOINT MORTGAGEFUNDING INC			250,000	
DET IMG	5180/680		25	ENTIRE LOT		6/8/2001	ASSIGNMENT, MORTGAGE	2	WMC MORTGAGE CORP	NATIONSCREDIT HOME EQUITY SERVICES CORPORATION				0

Search Options

New Parcel Identifier Search

Edit Current Search

View Tax Map

Go To: [Finance Home Page](#) | [NYC.gov Home Page](#) | [Contact Us](#) | [Privacy Policy](#) | [Terms of Use](#)

